

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

THE NEW YORK TIMES COMPANY,

Plaintiff,

v.

MICROSOFT CORPORATION, OPENAI,  
INC., OPENAI LP, OPENAI GP, LLC,  
OPENAI, LLC, OPENAI OPCO LLC,  
OPENAI GLOBAL LLC, OAI  
CORPORATION, LLC, OPENAI  
HOLDINGS, LLC,

Defendants.

DAILY NEWS, LP; CHICAGO TRIBUNE  
COMPANY, LLC; ORLANDO SENTINEL  
COMMUNICATIONS COMPANY, LLC;  
SUN-SENTINEL COMPANY, LLC; SAN  
JOSE MERCURY-NEWS, LLC; DP MEDIA  
NETWORK, LLC; ORB PUBLISHING, LLC;  
AND NORTHWEST PUBLICATIONS, LLC,

Plaintiffs,

v.

MICROSOFT CORPORATION, OPENAI,  
INC., OPENAI LP, OPENAI GP, LLC,  
OPENAI, LLC, OPENAI OPCO LLC,  
OPENAI GLOBAL LLC, OAI  
CORPORATION, LLC, OPENAI  
HOLDINGS, LLC,

Defendants.

Civil Action No. 1:23-cv-11195-SHS

Hon. Sidney H. Stein

**DECLARATION OF PAVEN MALHOTRA  
IN SUPPORT OF OPENAI  
DEFENDANTS' REPLY MEMORANDUM  
IN SUPPORT OF MOTION TO  
CONSOLIDATE**

Civil Action No. 1:24-cv-03285-SHS

Hon. Sidney H. Stein

**DECLARATION OF PAVEN MALHOTRA  
IN SUPPORT OF OPENAI  
DEFENDANTS' REPLY MEMORANDUM  
IN SUPPORT OF MOTION TO  
CONSOLIDATE**

**DECLARATION OF PAVEN MALHOTRA IN SUPPORT OF OPENAI DEFENDANTS'  
REPLY MEMORANDUM IN SUPPORT OF MOTION TO CONSOLIDATE**

1. I am a partner with the law firm of Kecker, Van Nest & Peters LLP, counsel of record for Defendants OpenAI, Inc., OpenAI LP, OpenAI GP, LLC, OpenAI, LLC, OpenAI OpCo LLC, OpenAI Global LLC, OAI Corporation, LLC, and OpenAI Holdings, LLC (collectively, “OpenAI”), and am admitted to practice before this Court.

2. I have knowledge of the facts set forth in this declaration and, if called to testify as a witness thereto, could do so competently under oath.

3. On June 14, 2024, I met and conferred with counsel for plaintiffs in the *Daily News LP* action (“Daily News”). During that conversation, I requested that *Daily News* plaintiffs’ counsel identify the number of works at issue in this case, and plaintiffs’ counsel informed me that they were not in a position to provide that information yet. Their counsel further informed me that they did not have an estimate as to when they would be able to provide such information. The following week, on June 21, 2024, I emailed plaintiffs’ counsel to follow up on my request that they identify the number of works at issue as well as provide an identification which works are being asserted. On June 24, 2024, plaintiffs’ counsel informed me that plaintiffs are asserting approximately 8.4 million works, and noted that this number “is an approximation” and that plaintiffs’ “investigation is ongoing.” A true and correct copy of this correspondence is attached hereto as Exhibit A.

4. To date in the *New York Times* action, the parties are still negotiating ESI custodians and search terms and exchanging hit counts.

5. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on July 3, 2024, at San Francisco, California.

/s/ Paven Malhotra  
PAVEN MALHOTRA